



Janice K. Brewer
Governor

State Of Arizona Board of Podiatry Examiners

"Protecting the Public's Health"

1400 W. Washington, Ste. 230, Phoenix, AZ 85007; (602) 542-3095; Fax: 542-3093

Barry Kaplan, DPM; Joseph Leonetti, DPM; Barbara Campbell, DPM;
M. Elizabeth Miles, Public Member; John Rhodes, Public Member; Sarah Penttinen, Executive Director

NOTICE AND AGENDA OF SPECIAL COMBINED PUBLIC MEETING FOR THE PURPOSE OF RATIFYING PAST ACTION AND TAKING ADDITIONAL ACTION

July 22, 2011; 12:00 p.m.
1400 West Washington St. #230
Phoenix, AZ 85007

Pursuant to A.R.S. §38-431.02 & 38-431.05, notice is hereby given to the members of the State of Arizona Board of Podiatry Examiners and to the general public that the Board will hold a special meeting open to the public on July 22, 2011 at 12:00 p.m. The meeting will be held at the Board's office located at 1400 W. Washington Street, Suite 230, Phoenix, Arizona 85007. One or more of the members of the Board may participate in the meeting by telephonic communications.

The purpose of the meeting is, in part, to ratify actions of the Board that may have been taken in violation of the Open Meeting Law on July 13, 2011. These actions involved: 1) Discussion and action to approve the Regular Session minutes of the June 8, 2011 Board meeting; and 2) Review, discussion and action taken on complaint investigation case number 10-18-M involving Dr. Gary Friedlander. The public may obtain a detailed written description of the actions to be ratified, and all deliberations, consultations, and decisions by Board members that preceded and relate to the actions to be ratified, except any actions made confidential by law, at the Board's office located at the address listed above. The detailed written description will be available and posted publicly at least 72 hours in advance of the meeting.

The special meeting will also involve review, discussion and legal action on items that were not considered at the July 13, 2011 meeting. During the meeting and upon a vote of the majority of a quorum, the Board may go into Executive Session to obtain legal advice from the Board's attorney(s) pursuant to A.R.S. § 38-431.03(A)(3) on any item on the agenda. Upon a vote of the majority of a quorum, the Board may also go into Executive Session pursuant to A.R.S. § 38-431.03(A)(2) on agenda items IV and V to discuss or consider records exempt by law from public inspection, including the receipt and discussion of information or testimony that is specifically required to be maintained as confidential by state or federal law. All meeting attendees whose presence is not required in an Executive Session will be required to leave the meeting room during Executive Session. Any legal action will take place in Open Session.

The Board may make an open call to the public during the meeting, subject to reasonable time, place and manner restrictions, to allow individuals to address the Board on any issue within its jurisdiction. Those wishing to address the Board need to request permission in advance; however, the Board may limit those persons speaking during the "Call to the Public" at three (3) per side on any one issue. Pursuant to A.R.S. § 38-431.01(H), members of the Board are not allowed to discuss or take legal action on matters raised during an open call to the public unless the matters are properly noticed for discussion and legal action. However, the Board may ask staff to review a matter or may ask that a matter be placed on a future agenda.

The Board reserves the right to change the order of items on the agenda, except for matters set for a specific time. The President of the Board reserves the right to call cases in random order. Please note that the recommendations listed on the agenda are merely suggested Board actions. These recommendations do not become final until adopted by the Board. The Board has the authority to accept, reject or modify any recommendation listed in the agenda.

Americans with Disabilities Act: Persons with disabilities may request reasonable accommodations by contacting Executive Director Sarah Penttinen at (602) 542-3095. Requests should be made as early as possible to allow time to arrange the accommodation.

Board Members:

Barry Kaplan, D.P.M., President
Joseph Leonetti, D.P.M., Member
Barbara Campbell, D.P.M., Member
M. Elizabeth Miles, Secretary-Treasurer
John Rhodes, Public Member

Staff:

Sarah Penttinen, Executive Director

Assistant Attorney General:

Seth Hargraves

The Agenda for the meeting is as follows:

I. Call to Order

II. Roll Call

III. Ratification: Review, Discussion and Possible Action: Pursuant to A.R.S. §38-431.05(B), the Board will vote on ratification of the following actions taken during the July 13, 2011 Board meeting:

- a. Approval of Regular Session Minutes from the June 8, 2011 Board meeting.
- b. Review, discussion and action to issue a Letter of Concern in complaint investigation case number 10-18-M for Dr. Gary Friedlander.

(The actions to be ratified, which were taken by the Board at the July 13, 2011 meeting, are reflected in the open session minutes of that meeting, a copy of which is attached to this agenda and incorporated by reference.)

IV. Approval of Minutes

- a. June 8, Executive Session Minutes.

V. Review of Administrative Law Judge Recommendation: The Board will review, discuss and take action to accept, reject, or modify the recommendation of the Administrative Law Judge in the following matter:

- a. 11-07-B – James Wilson, DPM: Failure to report criminal charges as required by A.R.S. §32-3208, misdemeanor conviction for assault, patient abandonment.

VI. Review, Discussion and Possible Action on Administrative Matters:

- a. Request from AzPMA for CME approval for August conference in San Diego, CA.
- b. Review of license renewal applications and dispensing registration renewals for the following podiatric physicians:

William Accomando
David Agoada
Kimberly Akkerman
Brian Allen
Robert Andersen
Barbara Aung
Daniel Bangart
Keith Bangart
Darren Barrus
Justin Beabes
Randy Bernstein
Janet Black
Erich Bock
Raymond Bock
Steven Born
Joseph Borreggine
Raymond Botte
Joel Bowen
Mark Brekke
Michael Brewer
Katherine Brigandi
Brian Broadhead
Randall Brower
Alex Bui
William Burke
Anna Burns
Barbara Campbell
Garald Campbell
Alan Carlson
S. Chainson-Kaye
Allison Cheney
John Chiakmakis
Donald Chudy
Janice Clark
Jamie Coffey
Richard Cohen
Stanton Cohen
Karl Collins
Charles Connell
Heather Couch
Samuel Cox

Donald Curtis
Evan Cwass
Amram Dahukey
Paul Daines
Michael Dershowitz
Joseph DeRose
John DiMaggio
Carlos Dimidjian
Kris DiNucci
Joseph Dobrusin
Samuel Dolnick
Joseph Domanico
Richard Donela
Peyman Elison
Viedra Elison
John Erotas
Albert Eulano
Robert Evans
Scott Evans
Dale Fienberg
Barton Fink
John Fiorino
William Fishco
Edward Flake
Mark Forman
Robert Fridrich
Gary Friedlander
Robert Frykberg
Christopher Funk
Louis Geller
Stephen Geller
April Glesinger
Eugene Goldman
Ryan Golub
Ike Gorman
Mark Gorman
Julia Granone
Douglas Griffin
Thomas Hale
Hugh Hall
Jared Hall

John Harlan
William Harrant
Jason Harrili
Brad Hayman
Carrie Hess
Steve Hollander
Daniel Hsu
Erika Huston
Brian Hutcheson
David Jaffe
Richard Jacoby
Sanford Kaner
Paul Keller
Robert Kenrich
Ronald Killian
Anthony Kimball
Patricia Kirk
Barbara Kluger
Edalyn Ko
Bruce Krell
Adam Kruczay
Ladislav Kuchar
Robert Kuvent
Todd Lamster
David Laurino
Paul Ledesdma
Herbert Lee
Howard Lepolstat
Joseph Leonetti
Michael Leonetti
Brian Lepow
James Longton
Gregory Loo
Theresa Losi
Andrew Lowy
Adam Lu
Stanley Lubeck
Scott Maling
Neal Mansdorf
Verlan Marshall
Cathleen McCarthy

Cameron McKay
Ivan McLaws
Peter Merrill
Floyd Miller
Kara Montes
Richard Mott
Peter Myskiw
Ronald Nagy
Aprajita Nakra
Anna Natcher
Katherine Neiderer
Glenn Nelson
Bradley Newswander
Brent Nixon
Dennis Noss
Kevin O'Brien
Ron Olsen
S. Otero-Quintero
Jeffrey Page
Marie Paul
Jeffrey Pawlowsky
Raymond Peterson
Tawnya Pfitzer
Mark Pipher
Jess Price
Richard Quint
Ralph Rabin
Richard Rand

Terry Ranta
Joyce Rather
Trena Reed
H. W. Reese
Jeffrey Resnick
Kathleen Richards
Lee Richer
Terrance Roach
Brent Roeder
Michael Rosenblum
Martin Rosenthal
Brian Roth
Blair Sandall
Karyn Sallus
Daniel Saunders
Edward Scates
Arthur Seidner
Michael Sekoksy
Paul Selander
Allen Sherman
Elaine Shapiro
Gilbert Shapiro
Paul Shapiro
Alan Shih
Ryan Shock
James Shoffer
Donald Shumway
Jerome Steck

Michael Stegman
James Stocker
C. Suykerbuyk
Arthur Tallis
Selena Tang
John Tassone
Wesley Taxier
George Thaler
Chad Thompson
Eric Trattner
Thomas Troy
Phillip Tutnauer
Tharesh Udupa
Wayne Vetter
Michael Warheit
Mark Weissfeld
Bruce Werber
Loren Wessel
Chad Westphal
Edward Wiebe
Lance Wissman
Margaret Withrow
Paul Woodward
Mark Woolley
Scott Wyant
Susan Young
Robert Zachow
Frank Zappa

VII. Call To The Public

Citizens who want to address the Board do not need to request permission in advance, but they do need to complete a "Citizen's Request to Speak to the Board" form so that the Board is aware that they are here and that they want to speak to the Board. Each person who wants to address the Board will be given five (5) minutes to do so. However, the Board may limit the number of persons speaking on each issue to a reasonable number of persons. Pursuant to A.R.S. § 38-431.02(H), the Board can discuss or take action ONLY on matters that are listed on the Agenda. Board action on issues that are not listed on the Agenda is limited to directing staff to study the matter or to schedule the matter for further discussion at a future Board Meeting.

VIII. Adjournment



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DRAFT BOARD MEETING MINUTES

July 13, 2011; 8:30 a.m.
1400 West Washington St., B1
Phoenix, AZ 85007

Board Members: Barry Kaplan, D.P.M, President
Joseph Leonetti, D.P.M., Member
Barbara Campbell, D.P.M., Member
M. Elizabeth Miles, Secretary-Treasurer
John Rhodes, Public Member

Staff: Sarah Penttinen, Executive Director

Assistant Attorney General: Anne Froedge

The Agenda for the meeting is as follows:

I. Call to Order

Dr. Kaplan called the meeting to order at 8:30 a.m.

II. Roll Call

Dr. Kaplan noted for the record that all Board members were present as were Ms. Penttinen and Ms. Froedge.

III. Approval of Minutes

a. June 8, 2011 Regular Session Minutes.

Dr. Kaplan noted one spelling error on page 2 of the minutes.

MOTION: Dr. Leonetti moved to approve the minutes with the spelling correction as noted. Ms. Miles seconded the motion. There was no discussion.

VOTE: The motion passed unanimously by voice vote.

V. Review, Discussion and Possible Action –Review of Complaints

g. 10-18-M – Gary Friedlander, DPM: Practice below the standard of care.

Dr. Friedlander was present with attorney Bruce Crawford. Physician Investigator William Leonetti was present and summarized the case as follows: Patient K.L. was seen by Dr. Friedlander for removal of an ingrown toenail on the right first toe. Near the end of the procedure the patient began to feel as if she was going to faint which caused some confusion. The tourniquet which had been placed on the patient's toe to control bleeding during the procedure was inadvertently left on and the toe was bandaged. The patient discovered this 24 hours after the procedure when she removed the bandage. She was seen in Dr. Friedlander's office by associate Dr. Tassone. There was numbness and discoloration to the toe. The patient filed a malpractice suit against Dr. Friedlander and a small settlement was paid to the patient. Dr. Leonetti stated he spoke with the patient who said her toe was initially very discolored and still remains slightly discolored. The patient stated she has normal use of the toe and normal sensation, but also experiences some nerve pain or "electrical sparking" sensations. Dr. Leonetti also spoke with Dr. Friedlander who admitted that in the excitement of the patient nearly fainting he had left the tourniquet on the patient's toe.

Dr. Kaplan asked Dr. William Leonetti about the charting for this procedure. Dr. Leonetti stated there was a contradiction because the chart states the tourniquet was removed and there was instantaneous perfusion in the toe. There was brief discussion regarding the order of events during Dr. Friedlander's care of the patient and the confusion caused by the patient's near fainting.

Dr. Friedlander was present with attorney Bruce Crawford. Mr. Crawford addressed the Board members and stated the following: There was no debate that the tourniquet was left on the patient's to but it was an inadvertent mistake. When Dr. Friedlander dictated his operative report he thought he had taken the tourniquet off. Dr. Friedlander has now developed a checklist to prevent a recurrence of this incident and also used a different method of controlling bleeding during this type of procedure. The patient has been evaluated by another physician who advised that the issues she is experiencing are minor and likely to decrease over time.

There was brief discussion between Dr. Joseph Leonetti and Dr. Friedlander regarding whose responsibility it was to remove the tourniquet and the method of removal. Dr. Friedlander stated it was his responsibility and he typically removes tourniquets by cutting them off. Dr. Kaplan stated that even though it was likely an accident because Dr. Friedlander was in a rush, he was concerned about the tourniquet being left on. He also is concerned about the inaccurate operative report. Dr. Kaplan asked if there was a recommendation from the Board. Dr. Leonetti recommended a Letter of Concern and Dr. Kaplan agreed.

MOTION: Dr. Joseph Leonetti moved to dismiss this case with a Letter of Concern for inadequate record-keeping and for leaving the tourniquet on the patient's toe following the procedure. The motion was seconded by Mr. Rhodes. There was no discussion on the motion.

VOTE: The motion passed unanimously by voice vote.

Immediately following the conclusion of this matter the Board recessed at 8:45 a.m. During the recess, Assistant Attorneys General Christopher Munns and Anne Froedge advised Ms. Penttinen and Dr. Kaplan that the meeting could not continue due to a problem with Open Meeting Law compliance. The meeting agenda had been physically posted as required. Under the Arizona Open Meeting Laws, the agenda is not required to be posted to the Board's website. However, the Board's website states that all agendas also will be posted online which then makes doing so a requirement under the Open Meeting Laws. This meeting agenda was not posted to the website; therefore, the 24-hour posting requirement was not met.

The Board reconvened at 8:53 a.m. and Ms. Froedge explained to the Board and the present public members why the meeting would have to be vacated. The actions already taken during this meeting will need to be ratified at a future Board meeting. Ms. Froedge confirmed to Dr. Friedlander that he would not need to be present at such future meeting. Ms. Penttinen will work with the Attorneys General for the proper procedure for ratification. Ms. Penttinen advised that due to the time frames involving license renewal applications, a special meeting will have to be held prior to the next regularly-scheduled meeting in August. The Board discussed this and agreed on a tentative date of July 22, 2011. Ms. Penttinen will confirm this with the Board members following the meeting today. All items on today's agenda which were not reviewed will be rescheduled for a future Board meeting.

MOTION: Ms. Miles moved to vacate the meeting. Dr. Leonetti seconded the motion. There was no discussion on the motion.

VOTE: The motion passed unanimously by voice vote and the meeting was adjourned at 9:02 a.m.